

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DANIEL PELAYO,

Plaintiff,

7:22 CIVIL 1725 (PED)

-v-

JUDGMENT

KILOLO KIJAKAZI,
ACTING COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Stipulation and Order dated November 14, 2022, that the final decision of the Commissioner of Social Security ("Commissioner") be reversed and the above-captioned action be remanded under sentence four of 42 U.S.C. §405(g). Section 405(g) provides that the Court has the power "to enter, upon the pleadings and transcript of record, a judgment affirming, modifying or reversing the decision of the [Commissioner], with or without remanding the cause for a rehearing." *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). Remand for further development of the record is appropriate when gaps exist in the administrative record or where the Administrative Law Judge ("ALJ") has committed legal error. See *Parker v. Harris*, 626 F.2d 225, 235 (2d Cir. 1980). Upon review of the record, the Commissioner finds that further development of the record and additional administrative action is warranted. Should the Appeals Council remand to an ALJ, upon remand the ALJ will conduct further proceedings and develop the administrative record as necessary to determine whether Plaintiff is disabled within the

meaning of the Social Security Act, including offering Plaintiff a new hearing, and issuing a new decision. Due to the nature of this motion, no supporting Memorandum is necessary. The parties further consent to the Court's entry of a final order. For the foregoing reasons, the Commissioner requests that this Court enter an Order and Judgment reversing the Commissioner's decision and remanding this case to the Commissioner for additional administrative proceedings, as described above. AND, the Court having reviewed this matter, IT IS So Ordered.

Dated: New York, New York
November 14, 2022

RUBY J. KRAJICK

Clerk of Court

BY:



Deputy Clerk